



# City of West Allis

Resolution: R-2018-0163

**File Number: R-2018-0163**

**Final Action:**

**Sponsor(s): Safety & Development Committee**

**APR 04 2018**

Resolution relative to determination of Special Use Permit for the proposed Pick 'n Save Fuel Center to be located within the parking lot of the existing Pick 'n Save at 6760 W. National Ave.

WHEREAS, ~~Brianna Cotten, Roundy's Supermarkets, LLC~~ <sup>Roundy's Supermarkets Inc. W</sup>, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code of the City of West Allis, to establish a fuel center within the existing parking lot of the multi-tenant commercial site anchored by Pick 'n Save at 6760 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on March 6, 2018 at 7:00 p.m., in the Common Council Chambers to consider the application; and,

WHEREAS, the Common Council, having carefully considered the evidence presented at the public hearing and the following pertinent facts noted:

1. The applicant, ~~Brianna Cotten, Roundy's Supermarkets, LLC~~ <sup>Roundy's Supermarkets Inc. W</sup>, will lease the property from NDC, LLC/property owner the property at 6731-65 W. Greenfield Ave. and 6760-72 W. National Ave. West Allis, WI 53214 to-wit:

All the land of the owner being located in the Northwest  $\frac{1}{4}$  and Northeast  $\frac{1}{4}$  of Section 3, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

Commencing at the Northwest corner of the Northeast  $\frac{1}{4}$  of said Section 3; thence South  $00^{\circ}48'19''$  East, 44.00 feet; thence South  $88^{\circ}05'33''$  West, 240.00 feet; thence South  $00^{\circ}48'31''$ , 312.96 feet, to the Southwest corner of Parcel 1 of Certified Survey Map No. 5490; thence North  $67^{\circ}26'54''$  559.48 feet, along the South line of said Parcel 1, to the West line of the Union Pacific railroad right-of-way; thence Southwesterly, 135.86 feet along said West right-of-way line and an arc of a curve whose radius is 363.27 feet, chord bearing South  $09^{\circ}51'09''$  West and chord length is 135.07 feet; thence South  $00^{\circ}48'31''$  East, 604.62 feet along the said West line to the North right-of-way line of West National Avenue; thence South  $67^{\circ}26'54''$  West, 280.48 feet, along said North right-of-way line and Point of Beginning; thence continue South  $67^{\circ}26'54''$  West, 176.61 feet; thence North  $33^{\circ}16'17''$  West, 132.93 feet; thence North  $67^{\circ}31'20''$  East, 201.70 feet; thence South  $22^{\circ}23'30''$  East, 130.35 feet, to the Point of Beginning.

A portion of land within Tax Key No. 453-0001-008

Said land being located within in a designated area on the property at 6731-65 W. Greenfield Ave. and 6760-72 W. National Ave.


2. The aforesaid premise is zoned C-3 Community Commercial District under the Zoning Ordinance of the City of West Allis, which permits gas stations as a Special Use, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code.

3. The proposed tenant, Pick n' Save Fuel Center, will lease the premise. The fuel center will include a 24' x 145' fuel canopy, a 178 sq. ft. kiosk building and five multi-product fuel dispensers. The kiosk building will have limited hours and include the sale of a limited number of items. No outdoor sales are permitted.

The fuel station will be constructed within a completely paved area of the existing Market Square Shopping Center parking lot in an individual outlot, by means of a certified survey map, which will allow the applicant to comply with the singular building-per-lot provision.

4. The subject property is located along a commercial corridor on the north side of W. National Ave. Properties to the north, east, south and west are zoned and developed as commercial and multi-family uses.

5. The use, value and enjoyment of other property in the surrounding area for permitted uses will not be substantially impaired or diminished by the establishment, maintenance or operation of the special use.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application submitted by ~~Brianna Cotten, Roundy's Supermarkets, LLC~~, be and is hereby granted on the following grounds: Roundy's Supermarkets Inc. 

That the establishment, maintenance and operation of the proposed use, with the imposition of certain conditions hereinafter set forth, reasonably satisfies the standards set forth in Sec. 12.16 of the Revised Municipal Code, so as to permit the issuance of a Special Use Permit as therein provided.

BE IT FURTHER RESOLVED that said Special Use Permit is granted subject to the following conditions:

1. Site, Landscaping, Screening and Architectural Plans. The grant of this Special Use Permit is subject to and conditioned upon the site, landscaping and architectural plans to be approved by the West Allis Plan Commission (scheduled March 28, 2018). No alterations or modification to the approved plan shall be permitted without approval by the West Allis Plan Commission.

2. Building Plans, Fire Codes and Licenses. The grant of this special use is subject to building plans being submitted to and approved by the Department of Building Inspections and Neighborhood Services and by the Fire Department. All applicable State and local licenses being applied for and approved. Seating capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Department.

3. Off-Street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, a total of 2 parking spaces are required for the fuel center. The fuel center will share spaces with the existing grocery store parking lot. A total of 390 stalls are required for the existing and proposed use (108,222 sf grocery store and the 178 sf fuel center kiosk). A total of 579 parking are currently provided and will be shared for both uses (grocery store and the fuel station).

4. Restaurant Operations:

A. Hours of Operation. 5:00 am - 10:00 pm, seven days per week for the fuel center kiosk and the pumps will be open to the public 24 hours a day, seven days a week.

5. Signage. Compliance with the West Allis signage ordinance. Window signage shall not exceed 20% of each window area and be located internally. Any lighting elements shall be subject to review and approval by the Department of Development.

6. Marketing Displays. The use of pennants, special lighting, flags, streamers or other signage typically temporary in nature, hanging, floating or attached to a structure or vehicle shall not be permitted.

7. Deliveries and Refuse Pickup. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within a four-sided enclosure or as approved by the Plan Commission. Refuse, recyclables, grease, and other waste materials will be fully enclosed within the approved structure.

8. Litter. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.

9. Sidewalk Repair. The grant of this special use is subject to compliance with Policy No. 2806 of the Revised Municipal Code relative to the City's sidewalk improvement policy as it relates to damaged, (if any) abutting sidewalk.

10. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays beyond the property boundaries.

11. Noxious Odors, Etc. The restaurant shall not emit foul, offensive, noisome, noxious or disagreeable odors, gases or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.

12. Pollution. The use shall not cause any noxious or unwholesome liquid or substance or any dirt, mud, sand, gravel, or stone refuse or other materials to be deposited upon any public right of way or flow into any sanitary sewer, storm sewer, or water supply system, or onto adjacent properties.

13. Expiration of Special Use Permit. Any special use approved by the Common Council shall lapse and become null and void one (1) year from and after that approval if the use has not commenced, construction is not underway, or the owner has not obtained a valid building permit. An extension of these time limitations may be granted without a public hearing by the Common Council by resolution reauthorizing the special use in accordance with the following criteria:

A. The applicant requesting the extension shall complete a planning application available from the Department of Development and shall submit a \$250.00 extension fee.

B. A written explanation for the extension of time shall accompany the planning application along with a timeline/schedule for obtaining necessary permits, zoning, state and municipal approvals and a target date for construction start;

C. The request for extension shall be submitted within sixty (60) days of the expiration of the special use permit;

D. The extension, if granted, shall be valid for a period of six (6) months. If no building permit has been issued and construction has not commenced within six (6) months from and after the extension has been granted, the special use shall become null and void.

14 Miscellaneous.

A. Applicants are advised that the foregoing conditions are reasonably necessary to protect the public interest and to secure compliance with the standards and requirements specified in Sec. 12.16 of the Revised Municipal Code; that the issuance of the special use is expressly subject to compliance with said conditions.

B. The use, as granted herein, is subject to applicants' compliance with all other state and local laws and regulations, which may be applicable to the proposed use of the real estate in question.

C. The special use, as granted herein, shall run with the land and benefit and restrict all future owners and occupants of the property, unless the use shall lapse or be terminated and the use will not be altered or extended (including structural alterations and/or additions) without the approval of the Common Council, following public hearing, all as provided in Sec. 12.16 of the Revised Municipal Code.

15. Lapse. If the applicant does not meet all of the terms and conditions set forth in this grant of a special use within one year of the granting thereof, then the Special Use Permit shall lapse and become null and void and the applicant shall forfeit any right to use the property as conferred by the Special Use Permit. The failure of the applicant to meet the terms and conditions of the Special Use Permit shall subject the permit to being declared void by the Common Council after notice to the applicant and a hearing before the Safety and Development Committee. Upon a finding and recommendation by the Committee to the Common Council on the matter, the applicant and/or any interested person may make comments regarding the matter to the Common Council prior to the Common Council's next regular meeting following the recommendation. Upon the Common Council's finding that the Special Use Permit has lapsed and become void, the applicant shall cease all operations at the property.

16. Termination of Special Use. If the person or entity granted the special use violates, allows or suffers the violation of the ordinances of the City of West Allis, the State of Wisconsin or the United States on the premises covered by the special use, then the special use may be terminated.

17. Acknowledgement. That the applicant signs an acknowledgment that he has received these terms and conditions and will abide by them.

The undersigned applicant agrees to the terms and conditions and has agreed that the grant of the Special Use Permit is conditioned on meeting the terms and conditions of this resolution.

Roundy's Supermarkets Inc.

By: 

~~Brianna Cotten, d/b/a Roundy's Supermarkets, LLC~~

Name: William L. Dowling  
Title: VP, Corporate Counsel

Mark Lampe, d/b/a NDC, LLC

Mailed to applicant on the  
11<sup>th</sup> day of April, 2018

  
City Clerk


cc: Dept. of Development  
Dept. of Building Inspections and Neighborhood Services  
Div. of Planning

ZON-R-1133-3-6-18

ADOPTED APR 04 2018

APPROVED 4/9/18

  
Steven A. Braatz, Jr., City Clerk

  
Dan Devine, Mayor

